

father, that in the event of his obtaining Cochrane's estate, he would convey the Maryland estate to Basil: provided his father would make no will, and permit the Maryland estate to descend to him, James, as his heir-at-law. Charles, the father, in consequence thereof, died intestate, and suffered the Maryland estate to descend to James; who afterwards succeeded to the estate of Cochrane. Upon a bill filed by Basil, the promise was held to be founded on * a sufficient consideration, and it was decreed, that James should convey the Maryland estate to Basil **403** accordingly. *Browne v. Browne*, 1 H. & J. 430.

The defendant having, as appears in proof, lost, or failed to obtain an estate of inheritance, by reason of the plaintiff's having undertaken to give her such an estate in her property after her death, it is clear, according to the established principles of equity, that the defendant should, in some form or other, have the full benefit of that promise assured to her. The whole controversy is now, perhaps, as fully presented to this tribunal as it ever can be hereafter, by any other or different form of procedure. It would, therefore, seem to be incumbent upon the Court now, finally to dispose of the whole matter, as well on behalf of the defendant as on the part of the plaintiff. To stop short with decreeing, that the deed of the 15th of June should be annulled, would be to dispose of no more than the one-half of the matter in dispute. It would be leaving the claim of the defendant, which has been so fully developed by the pleading and proofs, to be determined at a future day, and most probably between other parties; the defendant, if she lives, on the one hand, and the representatives of the plaintiff on the other, who may be very numerous; and the proofs, which are now strong and satisfactory, may be then very much wasted, or totally lost.

There are many cases in which this Court, in order to dispose of the whole matter in controversy, grants the relief to which the plaintiff has shewn himself to be entitled upon terms. No one is allowed to take a fraudulent advantage of the weakness or necessities of another. As in cases of sales by expectant heirs; in cases between guardian and ward; in cases of usury, and the like. But in all such instances, when the Court grants the relief prayed, it is upon the terms, that the plaintiff who asks equity shall do equity. And therefore, the fraudulent securities are allowed to stand for what is really due, or they are vacated only upon condition, that the plaintiff performs that which in equity and conscience he ought to perform. *Twisleton v. Griffith*, 1 P. Will. 310; *Hylton v. Hylton*, 2 Ves. 548; *Nesbit v. Nesbit*, 2 Cox, 183; *Wharton v. May*, 5 Ves. 27. Upon these principles this fraudulent conveyance of the 15th of June might be vacated only upon the condition, that the plaintiff should now, in conformity with her promise, make a settlement upon the defendant.